

1 Cliff Cantor, WSBA # 17893  
2 Law Offices of Clifford A. Cantor, P.C.  
3 627 208th Ave. SE  
4 Sammamish, WA 98074  
(425) 868-7813

5 *Liaison Counsel for Plaintiffs*

6  
7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF WASHINGTON

9  
10 In re IsoRay, Inc. Securities Litigation

11  
12 This document relates to:  
13 All actions

14 Master File No. 4:15-cv-5046-LRS

15 [Proposed] ORDER GRANTING  
16 PLAINTIFFS' MOTION FOR  
17 AWARD OF ATTORNEYS' FEES,  
18 REIMBURSEMENT OF  
19 EXPENSES, AND PLAINTIFF  
20 AWARDS

21 March 7, 2017  
22 With Oral Argument 10:30 a.m.  
23 Yakima Courthouse

24  
25 This matter is before the Court on plaintiffs' motion for an award of attorneys' fees, reimbursement of expenses, and awards to lead plaintiffs and named plaintiffs ("fee motion"). The fee motion is in connection with final approval of the proposed settlement of this consolidated action, which the Court has granted.

The Court previously appointed as co-lead counsel The Rosen Law Firm, P.A. and Wolf Haldenstein Adler Freeman & Herz LLP, and appointed as liaison counsel

1 Law Offices of Clifford A. Cantor P.C. (collectively “Plaintiffs’ Counsel”). In the  
 2 fee motion, they petition the Court for awards as follows:

3           (i) attorneys’ fees as compensation for professional legal services provided  
 4 to Plaintiffs and the Class,

5           (ii) reimbursement of expenses incurred in connection with the prosecution  
 6 of this action, and

7           (iii) awards to the Plaintiffs, totaling \$15,000,  
 8 all to be paid out of the Settlement Fund established pursuant to the Settlement.

9           The Court has reviewed the fee motion and the supporting, opposing, and all  
 10 related materials on file, and has heard the presentation made during the final  
 11 approval hearing, and has given due consideration to the issues presented.

12           Now, therefore, the Court hereby ORDERS as follows:

13           1. The fee motion is GRANTED.

14           2. Plaintiffs’ Counsel are awarded \$1,061,250, as attorneys’ fees in this  
 15 action, together with a proportionate share of the interest earned on the fund, at the  
 16 same rate as earned by the balance of the fund, from the date of the establishment  
 17 of the fund to the date of payment. The Court finds and concludes, for the reasons  
 18 given in the fee motion and supporting materials, that \$1,061,250, which is 30% of  
 19 the common fund, represents a reasonable attorneys’ fee in this action. Conducting  
 20 a lodestar cross-check, the Court also finds and concludes, for the reasons given in  
 21 the fee motion and supporting materials, that Plaintiffs’ Counsel conducted this  
 22 litigation efficiently and without substantial duplication of efforts; and the resulting  
 23 lodestar multipliers of 1.48 (using counsel’s prevailing market rates) or 1.77  
 24 (capping their rates at Seattle-area rates used by Judge Pechman in *In re Washington*

1     *Mut. Sec. Litig.*, No. 08-1919, 2011 WL 8190466, \*1 (W.D. Wa. Nov. 4, 2011)) are  
 2     each reasonable and within the range of multipliers often awarded in securities cases  
 3     such as this.

4         3. Plaintiffs' Counsel are awarded reimbursement of expenses in the  
 5     amount of \$29,296.98, to be paid out of the Settlement Fund. The Court finds and  
 6     concludes, for the reasons given in the fee motion and supporting materials, that  
 7     these expenses were reasonably and necessarily incurred in the prosecution of this  
 8     action, are adequately documented, and are of the types of expenses that are  
 9     customarily reimbursed in securities cases such as this.

10         4. Except as otherwise provided herein, the attorneys' fees and  
 11     reimbursement of expenses shall be paid in the manner and procedure provided for  
 12     in Stipulation and Agreement of Settlement filed September 23, 2016 (ECF No. 86-  
 13     1 at pp. 18-19).

14         5. Lead Plaintiffs Bodgan Ostrowski, Joseph Kavanaugh and Patrick  
 15     McNamara are awarded \$4,000 each, and named plaintiffs Timothy Yuen and JM  
 16     Zulueta are awarded \$1,500 each. The Court finds and concludes, for the reasons  
 17     given in the fee motion and supporting materials, that these awards are appropriate  
 18     as incentive awards and as reimbursement for their lost time in connection with  
 19     their prosecution of this action.

20         6. In making this award of attorneys' fees and reimbursement of expenses  
 21     to be paid from the Settlement Fund, the Court also finds and concludes as follows:

22             (a) the Settlement has created a fund of \$3,537,500 in cash, plus interest to  
 23     be earned thereon, and Class members who file timely and valid claims will benefit  
 24     from the Settlement created by Plaintiffs' Counsel;

1                 (b) over 12,265 copies of the Notice were disseminated to putative class  
 2 members indicating that at the March 7, 2017 final approval hearing, Plaintiffs'  
 3 Counsel intended to seek a fee of up to 30% of the Settlement Fund in attorneys'  
 4 fees, and reimbursement of their litigation expenses in an amount not to exceed  
 5 \$50,000;

6                 (c) the Summary Notice was published electronically on *Globe Newswire*  
 7 and in print in the *Investor's Business Daily* as required by the Court, no objections  
 8 have been filed against either the terms of the proposed Settlement or the ceiling on  
 9 fees and expenses to be requested by Plaintiffs' Counsel;

10                 (d) Plaintiffs' Counsel have conducted this litigation and achieved the  
 11 Settlement;

12                 (e) the litigation of this Action involved complex factual and legal issues  
 13 and was actively prosecuted since its filing, and in the absence of a Settlement, the  
 14 Action would have continued to involve complex factual and legal questions;

15                 (f) if Plaintiffs' Counsel had not achieved the Settlement, there was a risk  
 16 of either a smaller or no recovery;

17                 (g) Plaintiffs' Counsel have devoted over 1,153.89 hours of professional  
 18 time to the prosecution of this action, with a lodestar value of \$715,791.50 to achieve  
 19 the Settlement;

20                 (h) the amount of attorneys' fees awarded and expenses reimbursed from  
 21 the Settlement Fund are consistent with the awards in similar cases, and

22                 (g) the justification for these awards given in the fee motion and supporting  
 23 materials is well-taken.

1 Dated \_\_\_\_\_, 2017  
2  
3 SO ORDERED.  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

---

HON. LONNY R. SUKO  
UNITED STATES DISTRICT JUDGE

## Certificate of Service

I certify that, on the date stamped above, I caused this document to be filed with the Clerk of the Court using the CM/ECF system, which will cause notification of filing to be emailed to all parties via their counsel of record.

s/ Cliff Cantor, WSBA # 17893